

By Senator Dockery

15-02949B-08

20082742__

1 A bill to be entitled

2 An act relating to campaign finance; amending s. 106.0701,
3 F.S.; prohibiting an elected public officer from
4 soliciting or accepting contributions for certain
5 organizations; providing exemptions; providing penalties;
6 amending s. 106.08, F.S.; establishing an aggregate limit
7 on annual contributions to the state executive committee,
8 county executive committee, and subordinate committee of
9 any political party; prescribing penalties; reducing the
10 aggregate amount a nonstatewide candidate may accept from
11 a political party; deleting certain exemptions from the
12 contribution limits applicable to political party
13 contributions to candidates; amending s. 106.04, F.S.,
14 relating to committees of continuous existence; conforming
15 provisions to changes made by the act; amending ss.
16 106.087 and 106.29, F.S., relating to restrictions on
17 expenditures and contributions and reports by political
18 parties; conforming cross-references; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 106.0701, Florida Statutes, is amended
24 to read:

25 106.0701 Solicitation of contributions by elected officials
26 on behalf of certain groups and organizations prohibited s. 527
27 ~~or s. 501(c)(4) organizations; reporting requirements; civil~~
28 penalty; exemption.--

15-02949B-08

20082742__

29 (1) An elected public officer shall not, ~~The Governor,~~
30 ~~Lieutenant Governor, members of the Cabinet, state legislators,~~
31 ~~or candidates for such offices who~~ directly or indirectly,
32 solicit, cause to be solicited, or accept any contribution on
33 behalf of a committee of continuous existence, an electioneering
34 communications organization, or an organization that is exempt
35 from taxation under s. 527 or s. 501(c)(4) of the Internal
36 Revenue Code; however, this section does not apply to an elected
37 public officer seeking contributions for his or her own campaign
38 or political party.

39 (2) An elected public officer who violates this section is
40 subject to a civil penalty equal to three times the amount
41 involved in the prohibited act. Such penalty may be in addition
42 to the penalties provided for in s. 106.265 and shall be paid
43 into the General Revenue Fund of this state., ~~which such~~
44 ~~individuals, in whole or in part, establish, maintain, or~~
45 ~~control, shall file a statement with the division within 5 days~~
46 ~~after commencing such activity on behalf of the organization. The~~
47 ~~statement shall contain the following information:~~

48 ~~(a) The name of the person acting on behalf of the~~
49 ~~organization.~~

50 ~~(b) The name and type of the organization.~~

51 ~~(c) A description of the relationship between the person~~
52 ~~and the organization.~~

53 ~~(2) Failure to timely file the statement shall subject the~~
54 ~~person to a civil penalty of \$50 per day for each late day,~~
55 ~~payable from the personal funds of the violator.~~

56 ~~(3) Upon filing a statement with the division, an~~
57 ~~individual subject to the requirements of subsection (1) shall~~

15-02949B-08

20082742__

58 ~~promptly create a public website that contains a mission~~
59 ~~statement and the names of persons associated with the~~
60 ~~organization. The address of the website shall be reported to the~~
61 ~~division within 5 business days after the website is created.~~

62 ~~(4) All contributions received shall be disclosed on the~~
63 ~~website within 5 business days after deposit, together with the~~
64 ~~name, address, and occupation of the donor. All expenditures by~~
65 ~~the organization shall be individually disclosed on the website~~
66 ~~within 5 business days after being made.~~

67 ~~(5) The filing requirements of subsection (1) do not apply~~
68 ~~to an individual acting on behalf of his or her own campaign or a~~
69 ~~political party of which the individual is a member.~~

70 Section 2. Section 106.08, Florida Statutes, is amended to
71 read:

72 106.08 Contributions; limitations on.--

73 (1) (a) Except for political parties, no person, political
74 committee, or committee of continuous existence may, in any
75 election, make contributions in excess of \$500 to any candidate
76 for election to or retention in office or to any political
77 committee supporting or opposing one or more candidates.

78 Candidates for the offices of Governor and Lieutenant Governor on
79 the same ticket are considered a single candidate for the purpose
80 of this section.

81 (b)1. The contribution limits provided in this subsection
82 do not apply to contributions made by a state or county executive
83 committee of a political party regulated by chapter 103 or to
84 amounts contributed by a candidate to his or her own campaign.

85 2. Notwithstanding the limits provided in this subsection,
86 an unemancipated child under the age of 18 years of age may not

15-02949B-08

20082742__

87 | make a contribution in excess of \$100 to any candidate or to any
88 | political committee supporting one or more candidates.

89 | (c) The contribution limits of this subsection apply to
90 | each election. For purposes of this subsection, the primary
91 | election and general election are separate elections so long as
92 | the candidate is not an unopposed candidate as defined in s.
93 | 106.011(15). However, for the purpose of contribution limits with
94 | respect to candidates for retention as a justice or judge, there
95 | is only one election, which is the general election.

96 | (2) No person, political committee, or committee of
97 | continuous existence shall contribute more than \$15,000 per
98 | calendar year, in the aggregate, to the state executive
99 | committee, county executive committee, and subordinate committee
100 | of any political party regulated under chapter 103.

101 | (3)(2)(a) A candidate may not accept contributions from
102 | national, state, including any subordinate committee of a
103 | national, state, or county committee of a political party, and
104 | county executive committees of a political party, which
105 | contributions in the aggregate exceed \$25,000 ~~\$50,000~~, no more
106 | than \$12,500 ~~\$25,000~~ of which may be accepted prior to the 28-day
107 | period immediately preceding the date of the general election.

108 | (b) A candidate for statewide office may not accept
109 | contributions from national, state, or county executive
110 | committees of a political party, including any subordinate
111 | committee of a national, state, or county committee of a
112 | political party, which contributions in the aggregate exceed
113 | \$250,000, no more than \$125,000 of which may be accepted prior to
114 | the 28-day period immediately preceding the date of the general
115 | election. ~~Polling services, research services, costs for campaign~~

15-02949B-08

20082742__

116 ~~staff, professional consulting services, and telephone calls are~~
117 ~~not contributions to be counted toward the contribution limits of~~
118 ~~paragraph (a) or this paragraph. Any item not expressly~~
119 ~~identified in this paragraph as nonallocable is a contribution in~~
120 ~~an amount equal to the fair market value of the item and must be~~
121 ~~counted as allocable toward the contribution limits of paragraph~~
122 ~~(a) or this paragraph. Nonallocable, in-kind contributions must~~
123 ~~be reported by the candidate under s. 106.07 and by the political~~
124 ~~party under s. 106.29.~~

125 (4)~~(3)~~(a) Any contribution received by a candidate with
126 opposition in an election or by the campaign treasurer or a
127 deputy campaign treasurer of such a candidate on the day of that
128 election or less than 5 days prior to the day of that election
129 must be returned by him or her to the person or committee
130 contributing it and may not be used or expended by or on behalf
131 of the candidate.

132 (b) Except as otherwise provided in paragraph (c), any
133 contribution received by a candidate or by the campaign treasurer
134 or a deputy campaign treasurer of a candidate after the date at
135 which the candidate withdraws his or her candidacy, or after the
136 date the candidate is defeated, becomes unopposed, or is elected
137 to office must be returned to the person or committee
138 contributing it and may not be used or expended by or on behalf
139 of the candidate.

140 (c) With respect to any campaign for an office in which an
141 independent or minor party candidate has filed as required in s.
142 99.0955 or s. 99.096, but whose qualification is pending a
143 determination by the Department of State or supervisor of

15-02949B-08

20082742__

144 elections as to whether or not the required number of petition
145 signatures was obtained:

146 1. The department or supervisor shall, no later than 3 days
147 after that determination has been made, notify in writing all
148 other candidates for that office of that determination.

149 2. Any contribution received by a candidate or the campaign
150 treasurer or deputy campaign treasurer of a candidate after the
151 candidate has been notified in writing by the department or
152 supervisor that he or she has become unopposed as a result of an
153 independent or minor party candidate failing to obtain the
154 required number of petition signatures shall be returned to the
155 person, political committee, or committee of continuous existence
156 contributing it and shall not be used or expended by or on behalf
157 of the candidate.

158 (5)~~(4)~~(a) Any contribution received by the chair, campaign
159 treasurer, or deputy campaign treasurer of a political committee
160 supporting or opposing a candidate with opposition in an election
161 or supporting or opposing an issue on the ballot in an election
162 on the day of that election or less than 5 days prior to the day
163 of that election may not be obligated or expended by the
164 committee until after the date of the election.

165 (b) Any contribution received by an electioneering
166 communications organization on the day of an election or less
167 than 5 days prior to the day of that election may not be
168 obligated or expended by the organization until after the date of
169 the election and may not be expended to pay for any obligation
170 arising prior to the election.

171 (6)~~(5)~~(a) A person may not make any contribution through or
172 in the name of another, directly or indirectly, in any election.

15-02949B-08

20082742__

173 (b) Candidates, political committees, and political parties
174 may not solicit contributions from any religious, charitable,
175 civic, or other causes or organizations established primarily for
176 the public good.

177 (c) Candidates, political committees, and political parties
178 may not make contributions, in exchange for political support, to
179 any religious, charitable, civic, or other cause or organization
180 established primarily for the public good. It is not a violation
181 of this paragraph for:

182 1. A candidate, political committee, or political party
183 executive committee to make gifts of money in lieu of flowers in
184 memory of a deceased person;

185 2. A candidate to continue membership in, or make regular
186 donations from personal or business funds to, religious,
187 political party, civic, or charitable groups of which the
188 candidate is a member or to which the candidate has been a
189 regular donor for more than 6 months; or

190 3. A candidate to purchase, with campaign funds, tickets,
191 admission to events, or advertisements from religious, civic,
192 political party, or charitable groups.

193 (d) An electioneering communications organization may not
194 accept a contribution from an organization exempt from taxation
195 under s. 527 or s. 501(c)(4) of the Internal Revenue Code, other
196 than a political committee, committee of continuous existence, or
197 political party, unless the contributing organization has
198 registered as if the organization were an electioneering
199 communications organization pursuant to s. 106.03 and has filed
200 all campaign finance reports required of electioneering
201 communications organizations pursuant to ss. 106.07 and 106.0703.

15-02949B-08

20082742__

202 (7)~~(6)~~(a) A political party may not accept any contribution
203 that has been specifically designated for the partial or
204 exclusive use of a particular candidate. Any contribution so
205 designated must be returned to the contributor and may not be
206 used or expended by or on behalf of the candidate.

207 (b)1. A political party may not accept any in-kind
208 contribution that fails to provide a direct benefit to the
209 political party. A "direct benefit" includes, but is not limited
210 to, fundraising or furthering the objectives of the political
211 party.

212 2.a. An in-kind contribution to a state political party may
213 be accepted only by the chairperson of the state political party
214 or by the chairperson's designee or designees whose names are on
215 file with the division in a form acceptable to the division prior
216 to the date of the written notice required in sub-subparagraph b.
217 An in-kind contribution to a county political party may be
218 accepted only by the chairperson of the county political party or
219 by the county chairperson's designee or designees whose names are
220 on file with the supervisor of elections of the respective county
221 prior to the date of the written notice required in sub-
222 subparagraph b.

223 b. A person making an in-kind contribution to a state
224 political party or county political party must provide prior
225 written notice of the contribution to a person described in sub-
226 subparagraph a. The prior written notice must be signed and dated
227 and may be provided by an electronic or facsimile message.
228 However, prior written notice is not required for an in-kind
229 contribution that consists of food and beverage in an aggregate
230 amount not exceeding \$1,500 which is consumed at a single sitting

15-02949B-08

20082742__

231 or event if such in-kind contribution is accepted in advance by a
232 person specified in sub-subparagraph a.

233 c. A person described in sub-subparagraph a. may accept an
234 in-kind contribution requiring prior written notice only in a
235 writing that is signed and dated before the in-kind contribution
236 is made. Failure to obtain the required written acceptance of an
237 in-kind contribution to a state or county political party
238 constitutes a refusal of the contribution.

239 d. A copy of each prior written acceptance required under
240 sub-subparagraph c. must be filed with the division at the time
241 the regular reports of contributions and expenditures required
242 under s. 106.29 are filed by the state executive committee and
243 county executive committee.

244 e. An in-kind contribution may not be given to a state or
245 county political party unless the in-kind contribution is made as
246 provided in this subparagraph.

247 (8)~~(7)~~(a) Any person who knowingly and willfully makes or
248 accepts no more than one contribution in violation of subsection
249 (1), subsection (2), or subsection (6) ~~(5)~~, or any person who
250 knowingly and willfully fails or refuses to return any
251 contribution as required in subsection (4) ~~(3)~~, commits a
252 misdemeanor of the first degree, punishable as provided in s.
253 775.082 or s. 775.083. If any corporation, partnership, or other
254 business entity or any political party, political committee,
255 committee of continuous existence, or electioneering
256 communications organization is convicted of knowingly and
257 willfully violating any provision punishable under this
258 paragraph, it shall be fined not less than \$1,000 and not more
259 than \$10,000. If it is a domestic entity, it may be ordered

15-02949B-08

20082742__

260 dissolved by a court of competent jurisdiction; if it is a
261 foreign or nonresident business entity, its right to do business
262 in this state may be forfeited. Any officer, partner, agent,
263 attorney, or other representative of a corporation, partnership,
264 or other business entity, or of a political party, political
265 committee, committee of continuous existence, electioneering
266 communications organization, or organization exempt from taxation
267 under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who
268 aids, abets, advises, or participates in a violation of any
269 provision punishable under this paragraph commits a misdemeanor
270 of the first degree, punishable as provided in s. 775.082 or s.
271 775.083.

272 (b) Any person who knowingly and willfully makes or accepts
273 two or more contributions in violation of subsection (1),
274 subsection (2), or subsection (6), or any combination thereof,
275 ~~(5)~~ commits a felony of the third degree, punishable as provided
276 in s. 775.082, s. 775.083, or s. 775.084. If any corporation,
277 partnership, or other business entity or any political party,
278 political committee, committee of continuous existence, or
279 electioneering communications organization is convicted of
280 knowingly and willfully violating any provision punishable under
281 this paragraph, it shall be fined not less than \$10,000 and not
282 more than \$50,000. If it is a domestic entity, it may be ordered
283 dissolved by a court of competent jurisdiction; if it is a
284 foreign or nonresident business entity, its right to do business
285 in this state may be forfeited. Any officer, partner, agent,
286 attorney, or other representative of a corporation, partnership,
287 or other business entity, or of a political committee, committee
288 of continuous existence, political party, or electioneering

15-02949B-08

20082742__

289 | communications organization, or organization exempt from taxation
290 | under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who
291 | aids, abets, advises, or participates in a violation of any
292 | provision punishable under this paragraph commits a felony of the
293 | third degree, punishable as provided in s. 775.082, s. 775.083,
294 | or s. 775.084.

295 | (9)~~(8)~~ Except when otherwise provided in subsection (8)
296 | ~~(7)~~, any person who knowingly and willfully violates any
297 | provision of this section shall, in addition to any other penalty
298 | prescribed by this chapter, pay to the state a sum equal to twice
299 | the amount contributed in violation of this chapter. Each
300 | campaign treasurer shall pay all amounts contributed in violation
301 | of this section to the state for deposit in the General Revenue
302 | Fund.

303 | (10)~~(9)~~ This section does not apply to the transfer of
304 | funds between a primary campaign depository and a savings account
305 | or certificate of deposit or to any interest earned on such
306 | account or certificate.

307 | (11)~~(10)~~ Contributions to a political committee or
308 | committee of continuous existence may be received by an
309 | affiliated organization and transferred to the bank account of
310 | the political committee or committee of continuous existence via
311 | check written from the affiliated organization if such
312 | contributions are specifically identified as intended to be
313 | contributed to the political committee or committee of continuous
314 | existence. All contributions received in this manner shall be
315 | reported pursuant to s. 106.07 by the political committee or
316 | committee of continuous existence as having been made by the
317 | original contributor.

15-02949B-08

20082742__

318 Section 3. Subsection (5) of section 106.04, Florida
319 Statutes, is amended to read:

320 106.04 Committees of continuous existence.--

321 (5) No committee of continuous existence shall make an
322 electioneering communication, contribute to any candidate or
323 political committee an amount in excess of the limits contained
324 in s. 106.08(1), contribute to any political party committee an
325 amount in excess of the limits contained in s. 106.08(2), or
326 participate in any activity which is prohibited by this chapter.
327 If any violation occurs, it shall be punishable as provided in
328 this chapter for the given offense. No funds of a committee of
329 continuous existence shall be expended on behalf of a candidate,
330 except by means of a contribution made through the duly appointed
331 campaign treasurer of a candidate. No such committee shall make
332 expenditures in support of, or in opposition to, an issue unless
333 such committee first registers as a political committee pursuant
334 to this chapter and undertakes all the practices and procedures
335 required thereof; provided such committee may make contributions
336 in a total amount not to exceed 25 percent of its aggregate
337 income, as reflected in the annual report filed for the previous
338 year, to one or more political committees registered pursuant to
339 s. 106.03 and formed to support or oppose issues.

340 Section 4. Paragraph (a) of subsection (1) of section
341 106.087, Florida Statutes, is amended to read:

342 106.087 Independent expenditures; contribution limits;
343 restrictions on political parties, political committees, and
344 committees of continuous existence.--

345 (1)(a) As a condition of receiving a rebate of filing fees
346 and party assessment funds pursuant to s. 99.061(2), s.

15-02949B-08

20082742__

347 99.092(1), s. 99.103, or s. 103.121(1)(b), the chair or treasurer
 348 of a state or county executive committee shall take and subscribe
 349 to an oath or affirmation in writing. During the qualifying
 350 period for state candidates and prior to distribution of such
 351 funds, a printed copy of the oath or affirmation shall be filed
 352 with the Secretary of State and shall be substantially in the
 353 following form:

354

355 State of Florida

356 County of _____

357 Before me, an officer authorized to administer oaths,
 358 personally appeared (name) , to me well known, who, being
 359 sworn, says that he or she is the (title) of the (name of
 360 party) (state or specified county) executive committee;
 361 that the executive committee has not made, either directly or
 362 indirectly, an independent expenditure in support of or
 363 opposition to a candidate or elected public official in the prior
 364 6 months; that the executive committee will not make, either
 365 directly or indirectly, an independent expenditure in support of
 366 or opposition to a candidate or elected public official, through
 367 and including the upcoming general election; and that the
 368 executive committee will not violate the contribution limits
 369 applicable to candidates under s. 106.08(3) ~~s. 106.08(2)~~, Florida
 370 Statutes.

371 (Signature of committee officer)

372 (Address)

373

374 Sworn to and subscribed before me this _____ day of _____,
 375 (year) , at _____ County, Florida.

15-02949B-08

20082742__

376 (Signature and title of officer administering oath)

377 Section 5. Subsections (1) and (6) of section 106.29,
378 Florida Statutes, are amended to read:

379 106.29 Reports by political parties; restrictions on
380 contributions and expenditures; penalties.--

381 (1) The state executive committee and each county executive
382 committee of each political party regulated by chapter 103 shall
383 file regular reports of all contributions received and all
384 expenditures made by such committee. Such reports shall contain
385 the same information as do reports required of candidates by s.
386 106.07 and shall be filed on the 10th day following the end of
387 each calendar quarter, except that, during the period from the
388 last day for candidate qualifying until the general election,
389 such reports shall be filed on the Friday immediately preceding
390 both the primary election and the general election. In addition
391 to the reports filed under this section, the state executive
392 committee and each county executive committee shall file a copy
393 of each prior written acceptance of an in-kind contribution given
394 by the committee during the preceding calendar quarter as
395 required under s. 106.08(7) ~~s. 106.08(6)~~. Each state executive
396 committee shall file the original and one copy of its reports
397 with the Division of Elections. Each county executive committee
398 shall file its reports with the supervisor of elections in the
399 county in which such committee exists. Any state or county
400 executive committee failing to file a report on the designated
401 due date shall be subject to a fine as provided in subsection
402 (3). No separate fine shall be assessed for failure to file a
403 copy of any report required by this section.

15-02949B-08

20082742__

404 (6) (a) The national, state, and county executive committees
405 of a political party may not contribute to any candidate any
406 amount in excess of the limits contained in s. 106.08(3) ~~s.~~
407 ~~106.08(2)~~, and all contributions required to be reported under s.
408 106.08(3) ~~s. 106.08(2)~~ by the national executive committee of a
409 political party shall be reported by the state executive
410 committee of that political party.

411 (b) A violation of the contribution limits contained in s.
412 106.08(3) ~~s. 106.08(2)~~ is a misdemeanor of the first degree,
413 punishable as provided in s. 775.082 or s. 775.083. A civil
414 penalty equal to three times the amount in excess of the limits
415 contained in s. 106.08(3) ~~s. 106.08(2)~~ shall be assessed against
416 any executive committee found in violation thereof.

417 Section 6. This act shall take effect January 1, 2009.